

**Agreement
between the Government of the United States of America and the Government
of the Dominican Republic concerning the Sharing of Confiscated Proceeds
and Instrumentalities of Crimes**

The Government of the United States of America and the Government of the Dominican Republic, hereinafter called "the Parties;"

Recalling the United Nations Convention against Transnational Organized Crime, done at New York 15 November 2000, in particular its Article 12, Paragraph 1, and Articles 13 and 14;

Recalling also the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna 20 December 1988;

Recalling further the International Convention for the Suppression of the Financing of Terrorism, done at New York 9 December 1999;

Affirming that nothing in the provisions of this Agreement should prejudice in any way the provisions and the principles of international cooperation set forth in the aforementioned Conventions and that this Agreement also is intended to enhance the effectiveness of international cooperation envisioned in those Conventions; and

Desiring to create an appropriate framework for sharing confiscated proceeds and instrumentalities of crime;

Have agreed as follows:

**Article 1
Definition of Terms**

For the purposes of this Agreement:

- a) "Confiscation" shall mean a decision imposed by a court following proceedings in relation to a criminal offense or offenses (including a non-conviction-based forfeiture) and resulting in the permanent deprivation of assets, or of a sum equivalent to the value of such assets, to the benefit of a Party. As regards the Government of the United States, "confiscation" also shall mean an administrative forfeiture decision under national law in

relation to a criminal offense or offenses resulting in the permanent deprivation of assets to the benefit of the government. Fines, penalties, compensation to victims of crime, and costs of proceedings will not be considered as "confiscation."

- b) "Order" shall mean a written confiscation decision that is final and not subject to judicial appeal.
- c) "Assets" shall mean money and property of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such property, including the proceeds from a crime, or assets of an equivalent value if provided for by law, and the instrumentalities of a crime; and
- d) "Cooperation" shall mean the assistance rendered by one Party to the other that has contributed to or facilitated the confiscation of assets, including but not limited to the assistance described in Articles 7, 13, 18 to 20, 26, and 27 of the 2000 United Nations Convention against Transnational Organized Crime; and in Article 5, Paragraph 4, Article 7, Article 9, Paragraph 1, and Articles 11 and 17 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Article 2

Purpose and Scope of Application

This Agreement is intended to enable the Parties to share assets that have been confiscated in accordance with the legislation of the respective Parties. This Agreement is intended solely for the purposes of mutual assistance between the Parties. Only the Parties named in this Agreement may derive rights or benefits from the terms of this Agreement.

Article 3

Circumstances Leading to the Sharing of Confiscated Assets

- a) A Party that has assets confiscated through cooperation provided by the other Party, may, upon request from the other Party, or upon its own initiative, share these assets in accordance with this Agreement, without prejudice to Article 14, Paragraph 2 of the 2000 United Nations Convention against Transnational Organized Crime.

- b) A Party holding assets due to its execution of an order received from the competent authority of the other Party also may share such assets in accordance with the principles stated in Paragraph a.

Article 4

Request for Sharing of Confiscated Assets

- a) A Party may request a share of assets confiscated under circumstances set forth in Article 3. Unless otherwise agreed between the Parties, such a request shall be in writing and may be made no later than three months from the date of final judgment of all court proceedings concerning the confiscated assets. The requesting Party shall translate its request into the language of the requested Party.
- b) The request shall set forth the relevant circumstances of the cooperation, sufficient details to identify the case, the confiscated assets, and the entities involved, as well as additional information as agreed upon by the Parties.
- c) On receipt of a request to share confiscated assets made under this Article, the Party holding the confiscated assets shall, without delay, consider the request and inform the requesting Party in writing of the outcome of that consideration.

Article 5

Sharing of Confiscated Assets

- a) When one Party decides to share confiscated assets, it shall determine the share of those assets that represents the extent of the cooperation afforded by the other Party, considering the views, if any, expressed by the requesting Party in regard to the proportion to be shared. The Party that is sharing shall transfer to the recipient Party
 - 1. A sum equivalent to the determined share, in accordance with Article 6, Paragraphs a and b, following the sale or conversion of non-fungible confiscated assets, if necessary; or

2. Specified fungible confiscated assets, in kind, that are equivalent in value to all or part of the determined share, in accordance with Article 6, Paragraph c; or
 3. Specified non-fungible confiscated assets, in kind, that are equivalent in value to all or part of the determined share, in accordance with Article 6, Paragraph c.
- b) Unless otherwise agreed by the Parties, the assets that are shared shall be disposed of by the recipient Party in accordance with its domestic legislation governing disposition of forfeited assets.
 - c) The Party sharing the confiscated assets may place conditions on the use of those assets when it deems such to be appropriate. Consideration shall be given to the views expressed by the recipient Party as they relate to those conditions. The recipient Party may accept such conditions that are not inconsistent with its domestic legislation or the Conventions referenced in the preamble of this Agreement.
 - d) The Party sharing the confiscated assets may add interest or other increase in value accrued since the restraint or seizure and deduct the expenses required to obtain and maintain the order and the assets as well as to enforce the order until the assets are turned over. The Party sharing the confiscated assets shall not be responsible for expenses related to the shared assets once the sharing has occurred and the recipient Party effectively has received them.
 - e) The Parties do not intend to share insignificant assets. Assets valued below U.S. dollars 20,000.00, or its equivalent value in Dominican pesos, on the day the order is issued, shall be considered insignificant. In exceptional cases, the Parties may agree on sharing assets below this value.
 - f) Consistent with Article 14, Paragraph 2, of the 2000 United Nations Convention against Transnational Organized Crime, consideration of the rights of any identifiable victims of the crimes from which confiscated assets resulted shall have precedence over asset sharing between the Parties. Consequently, unless otherwise agreed by the Parties, a Party holding assets due to its execution of the other Party's confiscation order shall, upon request, promptly return to the other Party the confiscated assets, or their

equivalent value, less expenses incurred, for purposes of effecting the rights of identifiable victims.

- g) The decision in accordance with Article 5, in the Dominican Republic, shall be made by the Office of the Prosecutor General of the Republic. In the United States, such decision shall be made by the Department of Justice or the Department of the Treasury or by any other entity authorized by United States law.
- h) The decisions and determinations by the Parties under this Agreement cannot be contested by the Parties in judicial or other proceedings either in the Dominican Republic or the United States of America.

Article 6

Terms of Payment

- a) Unless otherwise agreed by the Parties, any assets to be transferred pursuant to Article 5, Paragraph a, Subparagraph 1, shall be paid
 - 1. in the currency of the Party holding the confiscated assets or the currency of the confiscated assets, and
 - 2. by an electronic transfer of funds or by check.
- b) Payment of any such assets shall be made
 - 1. in any case in which the Government of the Dominican Republic is to receive a payment, to the Office of the Prosecutor General of the Republic;
 - 2. in any case in which the Government of the United States of America is to receive a payment, to the United States of America and sent to the pertinent office or account specified by either the Department of Justice or by the Department of the Treasury; or
 - 3. to such other recipient as may be specified by the Competent Authorities.
- c) The Parties may make special arrangements, as necessary, to effect payment using specified fungible or non-fungible confiscated assets to be transferred pursuant to Article 5, Paragraph a, Subparagraphs 2 and 3.

Article 7
Consequences of the Sharing

- a) Any assets shared shall not be subject to any further domestic proceedings and shall be free from encumbrances.
- b) The Party sharing the assets assumes no liability or responsibility for the assets once they have been shared.
- c) The Party receiving the assets shall use them subject to the conditions imposed under Article 5, Paragraph c, when applicable, or otherwise for any lawful purpose.

Article 8
Competent Authorities

All communications between the Parties pursuant to the provisions of this Agreement shall be conducted by the following:

- a) for the Government of the Dominican Republic, by the Office of the Prosecutor General of the Republic;
- b) for the Government of the United States of America, by the Office of International Affairs, Criminal Division, United States Department of Justice. In addition, the Government of the Dominican Republic may transmit requests for asset sharing directly to the pertinent component agency of the United States Department of Justice or of the United States Department of Treasury;
- c) by such other nominees as a Party may specify.

Article 9
Consultations

Upon request of one of the Parties, the Parties shall consult without delay on the interpretation, application, or implementation of this Agreement in general or with regard to a specific case.

Article 10
Entry into Force

- a) This Agreement shall enter into force upon signature by both Parties.
- b) This Agreement shall apply to assets confiscated after it has entered into force, and to assets restrained or seized by one Party at the request of the other Party at the time of this Agreement's entry into force.

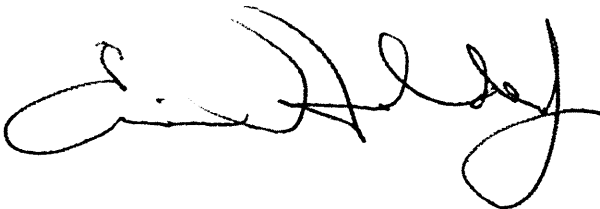
Article 11
Termination of the Agreement

Either Party may terminate this Agreement at any time by giving written notice to the other Party through diplomatic channels. The termination shall become effective three months after receipt of the notice.

In witness whereof the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done at Washington, D.C., in duplicate, this 19th day of April, 2012, in the English and Spanish languages, both texts beings equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
DOMINICAN REPUBLIC:

